

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Tom Arbino,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Case No. 2:12-cv-705
	:	
	:	JUDGE GREGORY L. FROST
State of Ohio,	:	Magistrate Judge Kemp
	:	
Defendant.	:	

OPINION AND ORDER

This case is before the Court to consider a Report and Recommendation which was filed on August 13, 2012, and which recommended dismissal of this case. Plaintiff, Tom Arbino, has not filed objections to the Report and Recommendation although it specifically notified him of the need to do so within fourteen days. He did recently file a motion asking the Court to clarify certain aspects of the order which transferred this case from the Western Division of this Court at Cincinnati to the Eastern Division at Columbus, but that motion (which the Magistrate Judge has ruled on) did not contain anything which can be construed as an objection to the Report and Recommendation.

The Court has independently reviewed the Report and Recommendation, and agrees that dismissal is appropriate. The only named defendant, the State of Ohio, is immune from suit in a federal court pursuant to the Eleventh Amendment to the United States Constitution. This Court has no power either to grant injunctive relief against the State or to enter a money judgment against it. Mr. Arbino has requested such relief, but it is simply not available to him here. See Seminole Tribe of Florida v. Florida, 517 U.S. 44, 58 (1996) ("the relief sought by a plaintiff suing a State is irrelevant to the question whether the

suit is barred by the Eleventh Amendment"); In re Ayers, 123 U.S. 443, 505 (1887) ("The very object and purpose of the 11th Amendment were to prevent the indignity of subjecting a State to the coercive process of judicial tribunals at the instance of private parties").

For these reasons, the Report and Recommendation (Doc. 4) is **ADOPTED** and **AFFIRMED**. This action is dismissed under 28 U.S.C. §1915(e)(2) as barred by the Eleventh Amendment to the United States Constitution. The Clerk is directed to mail a copy of the complaint and this dismissal order to the plaintiff and to the Attorney General of the State of Ohio.

IT IS SO ORDERED.

/s/ Gregory L. Frost
GREGORY L. FROST
UNITED STATES DISTRICT JUDGE